



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.co.washoe.nv.us

CM/ACM _____

Finance _____

DA _____

Risk Mgt N/A

HR N/A

Other N/A

STAFF REPORT

BOARD MEETING DATE: September 23, 2014

DATE: September 10, 2014
TO: Board of County Commissioners
FROM: Paul Lipparelli, Assistant Deputy District Attorney
plipparelli@da.washoecounty.us, 337-5713
SUBJECT: Recommendation to approve an Amendment to Interlocal Agreement for Provision of Water Services in Verdi, Nevada between Washoe County and Truckee Meadows Water Authority following the consolidation of their water operations. (All Commission Districts)

SUMMARY

The purpose of this report is to support the merger of Community Services' Water Utility (CSWU) with the Truckee Meadows Water Authority (TMWA) by approving an amendment to the Interlocal Agreement for the Provision of Water Services in Verdi, Nevada.

Washoe County Strategic Objective supported by this item: Achieving Long Term Financial Sustainability.

PREVIOUS ACTION

On May 5, 2005, the Board approved an Interlocal Agreement with TMWA for Provision of Water Services in Verdi, Nevada, and in connection with Interlocal Agreement the Board also approved a Settlement Agreement with TMWA and certain Verdi property owners regarding the provision of water services in Verdi, Nevada.

BACKGROUND

At the direction of the Board of County Commissioners (BCC) Washoe County staff has been working on a merger of CSDWU with TMWA since 2008. On December 9, 2009, the BCC entered into an interlocal agreement governing a proposed merger of the CSDWU with the TMWA Board of Directors. From that point forward County and TMWA staffs have been working diligently to complete the merger of the two water utilities.

As a part of the merger related activities staffs from the two entities have been reviewing agreements entered into by Washoe County that have obligated the County through

AGENDA ITEM # 6E

CSDWU to perform water utility related activities in order to determine if those agreement will need to be amended, canceled or assumed by TMWA on or before the close of the merger.

In early 2003, certain property owners in Verdi, Nevada, desired to develop their property and requested that the County allow TMWA to expand its service area and provide water service to the development. A dispute arose regarding which water purveyor, Washoe or TMWA, would provide service to that development. Subsequently Washoe, TMWA and the Verdi property owners entered into a Settlement Agreement resolving the dispute. The Settlement Agreement created a distinct water service program that requires, through an Interlocal Agreement, that TMWA provide water service to each of the County's retail water customers developed by the Verdi property owners.

Although the subject development did not occur, the City of Reno's development code has incorporated the proposed Verdi development, Settlement Agreement and the Interlocal Agreement still are valid include certain certain Cort ordered rights and obligations. Upon completion of the merger, TMWA will be the surviving water purveyor and shall have full responsibility for water utility functions and providing water service to the Verdi area which is the subject of the original Interlocal Agreement eliminating the need for the water service program established by that agreement. The attached proposed amendment to the Interlocal Agreement recognizes that change, however, all other rights and obligations arising from that agreement and the Settlement Agreement remain.

FISCAL IMPACT

Upon approval of the amendment to the Interlocal Agreement and close of the merger Washoe will not be obligated to provide water service to Verdi.

RECOMMENDATION

It is recommended that the Board approve an amendment to an Interlocal Agreement between Washoe County and Truckee Meadows Water Authority for provision of water services in Verdi, Nevada following the consolidation of their water operations.

POSSIBLE MOTION

Should the Board agree with Staff's recommendation possible motion would be: Move to approve an Amendment to Interlocal Agreement for Provision of Water Services in Verdi, Nevada between Washoe County and Truckee Meadows Water Authority following the consolidation of their water operations.

SETTLEMENT AGREEMENT FOR PROVISION OF WATER SERVICES IN VERDI, NEVADA

This agreement ("Settlement Agreement") is made and entered into this 1st day of June, 2005, by and between Washoe County, a political subdivision of the State of Nevada (hereinafter "County"), the Truckee Meadows Water Authority, a Joint Powers Authority created pursuant to NRS Chapter 277 among Reno, Sparks and Washoe County, Nevada (hereinafter "TMWA") and the Verdi Property Owners defined as the owners of the property described and depicted in Section 1.2, Table 1.1 and Figure 3-1 of the Mortensen Development Standards Handbook, January 2004, pages 1-2, 1-3 and 3-1 which are attached hereto as Exhibit "A" (hereinafter "Verdi Property Owners"). County, TMWA and the Verdi Property Owners are jointly referred to as the "Parties."

RECITALS

WHEREAS, on November 8, 2002, the Verdi Property Owners and their predecessors entered into a Settlement Agreement concerning the annexation and development of the Verdi Property Owners' real property; and

WHEREAS, on March 24, 2003, the Verdi Property Owners submitted their request to County to allow TMWA to expand its service area and provide water service to the Verdi Property Owner's land, and on October 14, 2003, County rejected the Verdi Property Owners' request; and

WHEREAS, on February 13, 2004, the Verdi Property Owners' filed a Motion for Enforcement of the Settlement Agreement and For a Determination of the Breach of the Covenant of Good Faith and Fair Dealing ("Motion for Enforcement of Settlement Agreement"); and

WHEREAS, TMWA sought leave to intervene regarding the Motion for Enforcement of Settlement Agreement and was granted leave on the condition that TMWA consent to the jurisdiction of Justice Hardesty and that no appeal could be taken; and

WHEREAS, on December 30, 2004, an Order Re: Verdi Property Owners' Motion for Enforcement of Settlement Agreement (hereinafter "Order", attached hereto as Exhibit "B") was entered vacating the County's determination denying the Verdi Property Owners' request to change the water service territory boundary and ordering TMWA and County to meet and confer pursuant to Article 3 of the 1996 Agreement between County and TMWA's predecessor Sierra Pacific Power Company (hereinafter "1996 Agreement") which is attached hereto as Exhibit "C"; and

WHEREAS, County and TMWA have reached an agreement regarding the provision of water service to the Verdi area which is incorporated into the Interlocal Agreement for Provision of Water Services in Verdi, Nevada ("Interlocal Agreement") attached hereto as Exhibit "D" (without exhibits); and

WHEREAS, the terms of the Interlocal Agreement and this Settlement Agreement are intended to resolve the Motion for Enforcement of the Settlement Agreement and the Order.

NOW THEREFORE, the Parties agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein.
2. The terms of the Interlocal Agreement which relate to or which could affect the Verdi Property Owners are hereby incorporated by reference as if set forth in full herein.
3. In consideration for the full and timely performance of all terms and conditions of the Interlocal Agreement and this Settlement Agreement, the Parties hereby compromise, settle and release each other from the claims, demands, damages, costs, attorney's fees and expenses arising from the Motion to Enforce the Settlement Agreement and Order.
4. In consideration for the full and timely performance of all terms and conditions of the Interlocal Agreement and this Settlement Agreement, the County shall pay the sum of \$200,000 to the Trust Account for the Verdi Property Owners, in care of its undersigned counsel within 30 days of ratification of this agreement by official action of the governing body of TMWA and County which shall occur concurrently with ratification of the Interlocal Agreement.
5. In consideration for the full and timely performance of all terms and conditions of the Interlocal Agreement and this Settlement Agreement, the Verdi Property Owners shall make a donation to County in care of the Oversight Advisory Board established by the Interlocal Agreement to be used for the benefit of the citizens in the Verdi/Mortensen/Mogul area. The specific amount of the donation will be determined and paid in the proportional amounts set forth in Exhibit "E" attached hereto, calculated so at final build out of all anticipated residential units and non-residential acreage, will total \$600,000. Each residential unit proportionate amount shall be paid by the current owner of the property within thirty (30) days of recordation of the final map for such residential unit. Each non-residential unit proportionate amount shall be paid by the current owner of the property within thirty (30) days of issuance of the Special Use Permit for the non-residential property.
6. Justice James W. Hardesty shall maintain continuing and exclusive jurisdiction to enforce the terms of this Settlement Agreement, the terms of the Interlocal Agreement as it relates to the provisions affecting the Verdi Property Owners, and to resolve disputes between the County and/or TMWA as party of the first part, and the Verdi Property Owners as party of the second part, until the time that the Joint Service Area as defined in the Interlocal Agreement, has been built out. The

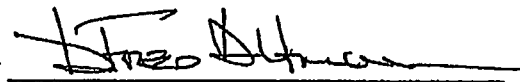
Parties agree that decisions rendered by Justice Hardesty are binding and non-appealable. In the event Justice Hardesty is unable to serve due to death or disability, the Parties agree that the then acting Chief Judge of the Second Judicial District Court shall appoint a new judge to maintain continuing and exclusive jurisdiction to the same extent as Justice Hardesty.

7. The Parties hereto acknowledge and agree that each of them shall bear their own costs, expenses and attorneys' fees arising out of or connected with the claims released herein, except that in the event any action or proceeding is brought by any Party hereto to enforce this Settlement Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that Party or those Parties may be entitled.
8. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns, members, partners, partnerships, parents, subsidiaries, affiliated and related entities, officers, directors, principals, agents, employees, representatives, and all persons, firms, associations and/or corporations connected with each of them and the Parties heirs, executors, administrators, trustees, trustees and beneficiaries.
9. This Settlement Agreement and the Interlocal Agreement contain all the commitments and agreements of the parties, and oral or written commitments not contained herein shall have no force or effect to alter any term or condition of this Settlement Agreement, unless modified in accordance with Paragraph 9.
10. This Settlement Agreement may be amended or modified only by the mutual written agreement of the Verdi Property Owners, County, TMWA and ratification by their respective governing boards. No amendment of the Agreement will impair any right of the Verdi Property Owners.
11. In case any one or more of the terms, sentences, paragraphs or provisions contained herein shall for any reason be held to be invalid, illegal, or non-enforceable, in any respect, such invalidity, illegality, or non-enforceability shall not affect any other terms, sentences, paragraphs, or provisions and this Settlement Agreement shall be construed as if such invalid, illegal, or non-enforceable provision had never been contained herein.
12. A waiver of any breach of any provision of this Settlement Agreement by any party shall not be construed to be a waiver of any preceding or succeeding breach.
13. This Settlement Agreement may be executed in counterparts, and when so executed, shall constitute an agreement which shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties' designated representatives do not appear on the same page.

14. The Parties to this Settlement Agreement shall cooperate fully in the execution of any and all documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement and the Interlocal Agreement such that the Verdi Property Owners' property are provided with the necessary water service in an expeditious manner.

15. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Nevada.

Dated 6/27/05, 2005



AOM Properties, LLC, a Nevada Limited
Liability Company by Fred Altmann its
Managing Member

APN's

038-010-05
038-100-10
038-100-11
038-830-02.

Dated _____, 2005

PNK (Reno), LLC, a Nevada Limited
Liability Company by Jack Fisher

APN's

038-090-34	038-132-25
038-090-61	038-430-02
038-100-12	038-430-03
038-100-19	038-430-04
038-100-26	038-430-20
038-100-27	038-430-21
038-120-03	038-430-22
038-120-08	038-430-24
038-120-10	038-430-28
038-120-12	
038-120-13	
038-120-14	

Dated _____, 2005

Landmark Homes, LLC, a Nevada Limited
Liability Company, by Dean Pearson

APN's

038-190-14
038-200-05
038-200-11
038-260-15

14. The Parties to this Settlement Agreement shall cooperate fully in the execution of any and all documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement and the Interlocal Agreement such that the Verdi Property Owners' property are provided with the necessary water service in an expeditious manner.

15. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Nevada.

Dated _____, 2005

AOM Properties, LLC, a Nevada Limited
Liability Company by Fred Altmann its
Managing Member

APN's

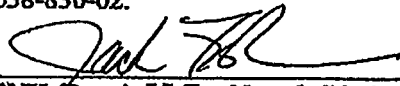
038-010-05

038-100-10

038-100-11

038-830-02.

Dated 6/13, 2005


PNK (Reno), LLC, a Nevada Limited
Liability Company by Jack Fisher

APN's

038-090-34

038-132-25

038-090-61

038-430-02

038-100-12

038-430-03

038-100-19

038-430-04

038-100-26

038-430-20

038-100-27

038-430-21

038-120-03

038-430-22

038-120-08

038-430-24

038-120-10

038-430-28

038-120-12

038-120-13

038-120-14

Dated _____, 2005

Landmark Homes, LLC, a Nevada Limited
Liability Company, by Dean Pearson

APN's

038-190-14

038-200-05

038-200-11

038-260-15

14. The Parties to this Settlement Agreement shall cooperate fully in the execution of any and all documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement and the Interlocal Agreement such that the Verdi Property Owners' property are provided with the necessary water service in an expeditious manner.

15. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Nevada.

Dated _____, 2005

AOM Properties, LLC, a Nevada Limited
Liability Company by Fred Altmann its
Managing Member

APN's

038-010-05

038-100-10

038-100-11

038-830-02.

Dated _____, 2005

PNK (Reno), LLC, a Nevada Limited
Liability Company by Jack Fisher

APN's

038-090-34

038-132-25

038-090-61

038-430-02

038-100-12

038-430-03

038-100-19

038-430-04

038-100-26

038-430-20

038-100-27

038-430-21

038-120-03

038-430-22

038-120-08

038-430-24

038-120-10

038-430-28

038-120-12

038-120-13

038-120-14

Dated July 26, 2005

Landmark Homes, LLC, a Nevada Limited
Liability Company, by Dean Pearson

APN's

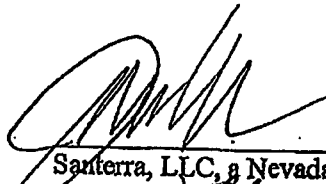

038-190-14

038-200-05

038-200-11

038-260-15

Dated July 26, 2005


Santerra, LLC, a Nevada Limited Liability
Company
by 

Execution of this Agreement is made
without waiver of, or prejudice to, the
substantive or procedural rights of the
parties to Case No. CV03-04778. Execution
of this Agreement may not be claimed to be
either a benefit or a burden to the
substantive or procedural rights of the
parties in Case No. CV03-04778.

APN's

038-030-10

038-120-04

038-190-37

Dated _____, 2005

Sierra Gateway Ventures, LLC, a Nevada
Limited Liability Company

by _____

Execution of this Agreement is made
without waiver of, or prejudice to, the
substantive or procedural rights of the
parties to Case No. CV03-04778. Execution
of this Agreement may not be claimed to be
either a benefit or a burden to the
substantive or procedural rights of the
parties in Case No. CV03-04778.

APN's

038-030-10

038-120-04

038-190-37

Dated _____, 2005

Truckee Meadows Water Authority, a Joint
Powers Authority created pursuant to NRS
Chapter 277, by _____

Dated _____, 2005

Washoe County Board of Commissioners

By: _____

Bonnie Weber, Chairman

Dated _____, 2005

Santerra, LLC, a Nevada Limited Liability Company

by _____

Execution of this Agreement is made without waiver of, or prejudice to, the substantive or procedural rights of the parties to Case No. CV03-04778. Execution of this Agreement may not be claimed to be either a benefit or a burden to the substantive or procedural rights of the parties in Case No. CV03-04778.

APN's

038-030-10

038-120-04

038-190-37

Dated 7-21, 2005


Sierra Gateway Ventures, LLC, a Nevada Limited Liability Company

by Nick Pavich, on behalf of Landmark Management, Manager of Sierra Gateway Ventures

Execution of this Agreement is made without waiver of, or prejudice to, the substantive or procedural rights of the parties to Case No. CV03-04778. Execution of this Agreement may not be claimed to be either a benefit or a burden to the substantive or procedural rights of the parties in Case No. CV03-04778.

APN's

038-030-10

038-120-04

038-190-37

Dated _____, 2005

Truckee Meadows Water Authority, a Joint Powers Authority created pursuant to NRS Chapter 277, by _____

Dated _____, 2005

Washoe County Board of Commissioners

By: _____

Bonnie Weber, Chairman

Exhibit "A"

Exhibit "A"

1.2 OWNERSHIP

Table 1-1 defines the ownership and parcels included in the MDSH. The Middagh parcel (APN 038-100-21) and a portion of APN 038-100-27 (6.51 acres) were included in the Settlement Agreement and annexed to the City of Reno but are not a part of the MDSH. Zoning for these parcels will be addressed at a later date by the property owner in accordance with the Settlement Agreement (section 9 of the Settlement Agreement).

TABLE 1-1 OWNER/PARCEL DATA

Property Owner	APN's	Total Acreage	Property Owner	APN's	Total Acreage
Boomtown	038-090-34	±563.29 ac	Quillci	038-190-14	±491.69 ac
	038-090-61			038-200-05	
	038-100-12			038-200-11	
	038-100-19			038-260-15	
	038-100-26		Mortensen	038-010-05	±999.78 ac
	038-100-27			038-100-10	
	038-120-03			038-100-11	
	038-120-08			038-830-02	
	038-120-10				
	038-120-12				
	038-120-13		Santerra LLC	038-030-10	±669.23 ac
	038-120-14			038-120-04	
	038-132-25			038-190-37	
	038-430-02				
	038-430-03				
	038-430-04				
	038-430-20				
	038-430-21				
	038-430-22				
	038-430-24				
	038-430-28				

1.3 BACKGROUND

The subject properties were annexed to the City of Reno effective July 24, 2001. Washoe County filed District Court Case No. CV01-03867. This lawsuit resulted in a Settlement Agreement (see appendix) that defines a maximum density and density distribution for the properties. It also established criteria to be used in the determination of the appropriate density and density distribution for the properties identified in Table 1-1.

The maximum density allowed by the Settlement Agreement is defined as:

- Existing 124 acres of commercial along the I-80 corridor;
- Up to an additional 176 acres of commercial along the I-80 corridor or railroad track; and
- Up to 3,000 residential units, including non-residential equivalents, on the remainder of the properties which limitation does not include the 124 acres and 176 acres noted above.

In addition to defining the maximum density that is permissible, the Settlement Agreement set out criteria to be used in preparing a land plan for the properties. These criteria include:

- Any natural constraints in slopes and wetlands
- The ability to obtain sewer and wastewater service and the likelihood that said service will be in place at certificate of occupancy or final inspection
- The availability of water resources and water delivery systems and the likelihood that said service and system will be in place at certificate of occupancy or final inspection
- Any impacts of traffic, level of service and level of congestion on the existing Verdi community
- The delivery of services, including fire, law enforcement, water, sewer and road maintenance, and how the provision of services affects, if at all, existing and neighboring communities
- The impact of future development in the requested densities on adjacent communities
- The requirements of Policy 1.2.16 of the 2002 Regional Plan unless inconsistent with the foregoing.

Policy 1.2.16 of the 2002 Truckee Meadows Regional Plan reads as follows:

"The Regional Plan designates the following general areas for emerging employment centers: the southeast Truckee Meadows, Stead, east and north Sparks, the Patrick interchange of the east Truckee River Canyon, and the Boomtown area.

To conform with the Regional Plan, Local Government and Affected Entity Master Plans must maintain and improve the viability of these areas as major employment centers with the following master plan provisions:

- 1) Provide adequate non-residential land supply;
- 2) Provide convenient access to major roads and/or freeways;
- 3) Require pedestrian connections throughout the areas and to nearby residential areas;

SECTION 3. DEVELOPMENT PLAN

3.1 LAND USE PLAN

Figure 3-1 represents the development plan for the properties included in the MDSH. This plan was prepared based on the studies included in the Supporting Studies Books 1 and 2 to address the criteria included in the Settlement Agreement.

The development potential established in the MDSH is allocated to the four property owners included in the MDSH. Table 3-1 defines the amount and type of development allocated to each property owner. Adjustments to the total numbers and types of development allocated to each owner may only be made as allowed in Section 6, Administration/Amendments of the MDSH. Adjustments between property owners must be accompanied by a notarized authorization from the donor property owner before they may be considered by the City of Reno.

TABLE 3-1 DEVELOPMENT POTENTIAL BY PROPERTY OWNER

Property	Acreage/Units
Mortensen	680 dwelling units
Boomtown	753 dwelling units HC ±85 acres AC ±48 acres IC ±75 acres
Santerra, LLC	1,180 dwelling units NC ±15 acres IC ±12 acres
Quilici	387 dwelling units IC ±65 acres

Table 3-2 establishes the zoning districts for the property as identified on Figure 3-1. Exact locations of zoning boundary lines will be defined with subsequent tentative maps, special use permits or parcel maps consistent with Figure 3-1, with the exception of the buffer areas adjacent to Bell Ranch, Verdi Bluff and South Verdi Road. These areas shall be defined by legal descriptions and implemented with the adoption of this handbook. Table 3-3 establishes the potential residential development by Planning Area as identified on Figure 3-1.

Exhibit "B"

Exhibit "B"

1 CODE NO. 3370

FILED

DEC 30 2004

RONALD A. LONGIN, JR., CLERK
By: *[Signature]*
DEPUTY

2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 COUNTY OF WASHOE, by and through its
10 Board of County Commissioners; Sun Valley
11 General Improvement District, by and through
its Board of Trustees,

Case No. CV02-03469

Dept. No. 9

12 Plaintiff,

13 vs.

14 WASHOE COUNTY REGIONAL GOVERNING
BOARD,

15 Defendants,

16
17 AND ALL RELATED ACTIONS.

18
19 ORDER RE: VERDI PROPERTY OWNERS' MOTION FOR
ENFORCEMENT OF SETTLEMENT AGREEMENT

20 Ricorose Quilici Ranch Property, LLC, the Robert and Marjorie Quilici Family Trust,
21 and the Ronald and Diana Anderson Family Trust; the Estate of J. Ross Mortensen, by and
22 through its executor Karen Middagh, Karen Middagh as Guardian of the Estate and Person
23 of Irene Mortensen, and James W. and Karen Middagh (collectively, the "Verdi Property
24 Owners") filed a Motion for Enforcement of the Settlement Agreement and For a
25 Determination of the Breach of the Covenant of Good Faith and Fair Dealing. The Motion
26 seeks an order of the Court finding Washoe County violated the terms of the parties'
27 Settlement Agreement dated November 8, 2002. Exhibit 4.

28 The Court has reviewed and considered the points and authorities submitted in

1 support of and in opposition to the Motion, took testimony in a week long hearing,
2 considered depositions, and 75 exhibits.¹

3 On November 8, 2002, the Verdi Property Owners and Washoe County entered into
4 a Settlement Agreement concerning the annexation and development of the Verdi Property
5 Owners' real property. Pursuant to Paragraph 2, Washoe County recognized and agreed to
6 the annexation of the Verdi Property Owners' property into the City of Reno pursuant to
7 Reno City Ordinance No. 5264. The parties also provided for requests to be made by the
8 Verdi Property Owners for changes in the density of development and the adoption of a
9 Development Standards Handbook. The Development Standards Handbook would govern
10 development on the Verdi Property Owners' land pursuant to subsequent applications for
11 tentative maps and special use permits.

12 The Verdi Property Owners presented applications for development to the City of
13 Reno. As part of their requests concerning density and the Development Standards
14 Handbook, the Property Owners' requested the City of Reno provide water service through
15 the Truckee Meadows Water Authority ("TMWA"). The City of Reno requested the Verdi
16 Property Owners petition Washoe County to allow TMWA to provide service to the
17 properties.

18 The Verdi Property Owners' land is located within Washoe County's service territory.
19 However, TMWA's service boundary is adjacent to the Verdi Property Owners' land and
20 Washoe County currently has no facilities to supply water to the Verdi Property Owners.

21 On March 24, 2003, the Verdi Property Owners submitted their request to Washoe
22 County to allow TMWA to expand its service area and provide water service to the Verdi
23 Property Owners' land.

24 On October 14, 2003, Washoe County rejected the Verdi Property Owners' request.
25 The instant motion followed. TMWA sought leave to intervene on this issue. The Court
26 granted leave on the condition that TMWA consent to the jurisdiction of the Court and the
27

28 ¹ The Court reserved ruling on the admissibility of Exhibits 33 and 34. Given the Court's conclusion that the Settlement Agreement is clear and unambiguous, the Court will not consider the draft copies and the objection is sustained to these two exhibits.

1 understanding that no appeal could be taken from any determination made. TMWA
2 consented.

3 Paragraph 13 of the Verdi Property Owners/Washoe County Settlement Agreement
4 provides in pertinent part as follows:

5 13. The parties agree to implement this agreement in good faith, including
6 mutual cooperation on.....the provision of water service in accordance
7 with applicable practices, policies, rules and regulations,
8 The Verdi Property Owners' contend that Washoe County's rejection of the request to
9 modify the water service boundaries is a breach of the Settlement Agreement.

10 In 1996, Washoe County and Sierra Pacific Power Company entered into an
11 agreement concerning water service in the region. See Exhibit 1. The agreement specified
12 the service territories for Sierra Pacific Power Company and Washoe County. See Exhibit
13 72. Generally speaking the parties agreed that water would be provided by Sierra Pacific
14 and Washoe County within the boundaries of the territories set forth in Exhibit 72.

15 Section 2.7 of the 1996 agreement, however, permitted adjustment of the boundaries
16 to accommodate specific projects. The agreement contemplated adjustments by mutual
17 agreement of the parties. In reaching a decision on the adjustment of service area
18 boundaries, the parties obligated themselves to consider:

- 19 a. providing water service at the lowest aggregate costs of all facilities,
20 improvements, and operations required to provide water service as
21 measured by net present value;
- 22 b. not adversely affect customers, existing or future; and
- 23 c. provide for the best interest of system development and integration.

24 The parties also provided for dispute resolution. TMWA is the successor to Sierra
25 Pacific Power Company and agrees that it is bound by the 1996 agreement.

26 Lori Williams was the Director of Water for Sierra Pacific Power Company at the time
27 of the 1996 agreement. She testified credibly that the purpose of the agreement was to "do
28 the right thing by the customer." In accessing boundary line adjustments, the parties agreed
to make a practical assessment concerning which entity had the facilities and the water and
who could best serve the customer. Prior to 2002, Ms. Williams worked directly with

1 Washoe County on an informal basis and the parties reach a number of agreements
2 modifying the service boundary territories.

3 In 2002, Ms. Williams, now the General Manager for TMWA, formalized the review of
4 territory adjustment with Steve Bradhurst, the Director of the Department of Water
5 Resources for Washoe County. Ms. Williams and Mr. Bradhurst agreed to a procedure in
6 which the developer would make a request for territory adjustment and the staffs of Washoe
7 County and TMWA would conduct a joint evaluation. Using this procedure, the parties have
8 made additional territorial adjustments to their respective service boundaries.

9 The Verdi Property Owners' request for an adjustment of the TMWA territory was first
10 discussed at a monthly staff meeting between TMWA and Washoe County. County staff
11 wanted to perform a comparison study of the effect of the change in service to the Verdi
12 Property Owners from Washoe County to TMWA. Although TMWA was always willing to
13 adjust the boundary and provide the services, it consented to the study.

14 On June 2, 2003, TMWA and Washoe County advised the Verdi Property Owners of
15 their intent to retain a consulting firm ".....with proven expertise in the utility financing and
16 utility rate matters.....to compare Washoe County and TMWA water service requirements,
17 rate and fee structures, and costs relative to the provision of water service to properties in
18 the Lawton to Verdi area." See Exhibit 29.

19 FCS Group, Inc. was commissioned to conduct the "Verdi Service Comparison". In
20 August of 2003, a draft of the report was presented to the Verdi Property Owners'
21 representatives. Several deficiencies were noted and FCS made some changes resulting in
22 a final report which was admitted into evidence as Exhibit 5. The Verdi Service Comparison
23 concluded that based on the evaluation of service options, differences in services
24 characteristics and minimal cost differential there was no ".....overwhelming basis for the
25 transfer of service from the County to TMWA....." See Exhibit 5, page 10.

26 The FCS report was submitted to the Washoe County Commissioners at their
27 hearing held on October 14, 2003 to consider the Verdi Property Owners' request to change
28 boundary lines. The Court finds a number of deficiencies exist in the report provided to the

1 Commissioners. Indeed, they are numerous and included among them are the following:

- 2 1. FCS representative informed the Court that this was the first time he had
- 3 done a comparative study;
- 4 2. FCS was not provided with nor did they consider the Settlement
- 5 Agreement Exhibit 4;
- 6 3. No consideration was given to the correct water dedication requirements;
- 7 4. The report did not address provider or service rates, only facility
- 8 comparisons;
- 9 5. The report did not consider the costs of a Wholesale Water Agreement;
- 10 6. The report did not consider the fact that no Wholesale Water Agreement
- 11 exists between TMWA and Washoe County concerning the Verdi Property
- 12 Owners' land; and
- 13 7. The report did not consider the fact that most Wholesale Water
- 14 Agreements between Washoe County and TMWA are cancelled in 10
- 15 years.²

16 The FCS representative also testified candidly that he was not asked to raise or rule
17 out other issues, yet he acknowledged there were a number of other issues that could have
18 been studied further. He acknowledged that areas such as the dedication of water, joint
19 trenching requirements, and the nature of Wholesale Agreement terms should be part of
20 any evaluation in a decision to change boundary lines. Most troubling to the Court was his
21 conclusion that had he known of the existence of the Settlement Agreement, he would have
22 developed a different scope of work for conducting the comparison study.

23 When Ms. Williams reviewed the FCS report, she concluded that there was no basis
24 for the report to conclude what the County would charge for water rates in the Verdi area.
25 TMWA and Washoe County had never discussed rates and no terms had been reached for
26 a Wholesale Agreement between TMWA and the County.

27 John Collins was the Manager of the Washoe County Utility Services. Mr. Collins
28

² This issue creates serious financing concerns for the Verdi Property Owners.

1 testified that he too was unaware of the parties' Settlement Agreement. Exhibit 4. Further,
2 he did not supply the Settlement Agreement to FCS. Mr. Collins acknowledged that
3 Washoe County has no distribution lines or facilities to serve water to Verdi. Furthermore,
4 any water service provided by Washoe County would require a Wholesale Agreement with
5 TMWA. Mr. Collins further agreed that Section 2.7 of the 1996 Agreement is the only policy
6 Washoe County uses to determine boundary line adjustments, and no distinction is made
7 between the size of the boundary line adjustment. Mr. Collins also agreed that Washoe
8 County would accept water under TMWA Rule 7 for dedication. This position, however,
9 seems to be in conflict with Washoe County Ordinances. Further, he agreed Washoe
10 County would supply water at TMWA rates. However, without the terms of the Wholesale
11 Agreement being known, Mr. Collins acknowledged that in theory Washoe County could
12 actually lose money supplying water to Verdi.

13 The Court finds the Washoe County Commissioners were not provided with many of
14 the facts supplied to the Court concerning the decision to adjust the water service boundary.
15 While the Commissioners proceeded on the basis of information supplied to them, it is clear
16 that a number of issues were not correctly evaluated or presented. Under the
17 circumstances, the Court cannot conclude that Washoe County acted in good faith with
18 respect to the decision to adjust the service boundary line. Therefore, the Court vacates the
19 determination of Washoe County on October 13, 2003 denying the Verdi Property Owners'
20 request to change boundaries.

21 The Verdi Property Owners ask the Court to order a change in the boundary line to
22 TMWA as a further remedy for Washoe County's breach of the Settlement Agreement. The
23 Court believes this conclusion is premature.

24 As noted, the information supplied to the Commissioners was flawed and did not take
25 into consideration the terms of the Settlement Agreement. Furthermore, testimony
26 generated at the hearing on this matter showed that no consideration had been given by
27 TMWA or Washoe County to other water service in the Verdi area. The Court is concerned
28 that extension of the TMWA boundary may not address other water needs in the area thus

1 leaving pockets or islands under the Washoe County service territory. The Court also
2 observes that Washoe County and TMWA failed to follow the terms of the 1996 Agreement
3 concerning dispute resolution. Article 3 of the 1996 Agreement compels the parties to
4 follow a dispute resolution process in the event the parties are unable to agree on an issue
5 such as this. That never happened in this case.

6 Pursuant to the Court's jurisdiction over the Implementation of the Settlement
7 Agreement and based on the foregoing findings, the Court orders TMWA and Washoe
8 County to follow Article 3 of the 1996 Agreement in deciding whether to adjust the boundary
9 for water service to Verdi. In resolving the dispute, the parties are limited in their
10 consideration to the factors set forth in Section 2.7 of the Agreement. TMWA and Washoe
11 County are ordered to meet and confer pursuant to Article 3 of the 1996 Agreement within
12 45 days of the date of this Order to resolve the service boundary lines for the Verdi Property
13 Owners. The parties' conference should include consideration for other water service to the
14 Verdi area. TMWA and Washoe County shall have 90 days to inform the Court of the
15 results of the dispute resolution process. Should the parties fail to agree using the
16 standards set forth in Section 2.7 of the Agreement, the Court shall consider further
17 remedies resulting from Washoe County's breach of the Settlement Agreement.

18 One further issue requires resolution. Significant differences were presented to the
19 Court concerning the quantity of water to be dedicated by the Verdi Property Owners. This
20 dispute was highlighted during the County Commissioners hearing on October 14, 2003.
21 Subsequent to that hearing, Washoe County staff agreed the water dedication should be in
22 quantiles consistent with TMWA Rule 7. Therefore, any water dedication to either TMWA
23 or Washoe County shall be made in accordance with TMWA Rule 7.

24 DATED this 30 day of December, 2004.

25
26 
27 DISTRICT JUDGE
28

CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court, in, and for the County of Washoe; and that on this 3 day of January, 2005, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

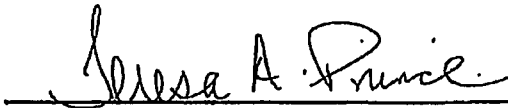
Madelyn Shipman, Esq.
Assistant District Attorney
Washoe County District
Attorney's Office
(via interoffice mail)

R. Shawn Oliphant, Esq.
Lane, Fahrendorf, Vilorio & Oliphant, Ltd.
327 California Avenue
Reno, Nevada 89509

Norman Azavedo, Esq.
338 California Avenue
Reno NV 89509

Sylvia Harrison, Esq.
McDonald Carano Wilson LLP
P. O. Box 2670
Reno NV 89505-2670

Marilyn Craig
Deputy City Attorney
Reno City Attorney's Office
P. O. Box 1900
Reno NV 89505


Teresa A. Prince

David Creekman, Esq.
Sr. Assistant City Attorney
Sparks City Attorney's Office
P. O. Box 857
Sparks NV 89431

J. Stewart White, Esq.
White Meany & Wetherall, LLP
3185 Lakeside Drive
Reno NV 89509

Stephen C. Mollath, Esq.
Prezant & Mollath
6560 SW McCarran Blvd., Ste. A
Reno NV 89509

Exhibit "C"

Exhibit "C"

2. The board may exclude from the region any land which it

determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.

6. This Agreement is intended to satisfy the requirements of NRS §540A.300.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

ARTICLE I

DEFINITION OF REGION

~~For purposes of this Agreement, the "Region" does not include any portion of Washoe~~
County described in NRS §540A.030 1(a) or 1(b) and is further limited to that portion of Washoe County shown on the map which is attached hereto and by this reference incorporated herein as Exhibit "A".

ARTICLE II

RETAIL WATER SERVICE IN THE REGION

Section 2.1 Existing Customers. Sierra and all systems for the supply of water which are controlled or operated by the Board of County Commissioners of County shall each continue to provide retail water service to those customers to whom they are providing such service on the date of execution of this Agreement.

Section 2.2 Retail Service Territory of Sierra. Subject to the provisions of sections 2.4 through 2.8, Sierra shall provide retail water service to the areas within the Region designated as "SPPCo Service Area" on Exhibit "A".

Section 2.3 Retail Service Territory of County. Subject to the provisions of sections 2.4 through 2.8, all systems for the supply of water which are controlled or operated

by the Board of County Commissioners of County shall provide retail water service to the areas within the Region designated as "Washoe County Service Area" on Exhibit "A".

Section 2.4 Retail Service Areas of Others; Domestic Wells. The provisions of Sections 2.1 through 2.3 are not intended to affect the areas of the Region receiving retail water service from an entity other than Sierra, a system for the supply of water not controlled or operated by the Board of County Commissioners of County or a domestic well.

Section 2.5 Acquisition of Retail Service Providers. Nothing in this Agreement is ~~intended to prevent and this Agreement shall not be construed as preventing Sierra or County~~ from acquiring directly or indirectly other entities providing retail water service within the Region. In the event of such an acquisition the retail service territory boundaries of the acquiring entity shall be deemed amended to the extent of the retail service territory boundaries of the acquired entity.

Section 2.6 Resolution of Conflicting Provisions. In the event there is a conflict between the retail service boundaries established by section 2.1 of this Agreement and those established by any other section of this Agreement, the provisions of section 2.1 shall control.

Section 2.7 Adjustment of Retail Water Service Boundaries. County and Sierra agree that the retail water service areas established by this Article may be adjusted for projects near the boundaries of their respective service areas or for projects which the County and Sierra agree can be best served in a different manner. Any adjustment in service area boundaries may be made by agreement of the parties. In considering and deciding proposed service area boundary adjustments, the parties will seek to:

- A. Provide water service at the lowest aggregate cost of all facilities,

improvements and operations required to provide water service as measured by not present value, generally using current dollars at the time of comparison or decision;

B. Not adversely affect customers, existing or future; and

C. Provide for the best interests of system development and integration.

Section 2.8 Avoidance of Stranded Investment Although the parties have generally considered the location of their respective existing facilities for providing retail water service in establishing the retail water service boundaries in this Article, they have not undertaken detailed and specific studies in that regard. The parties agree to take reasonable measures in good faith so that the boundaries established by this Article do not result in either having stranded investments in facilities for the provision of water service.

ARTICLE III

DISPUTE RESOLUTION

Disputes arising under this Agreement will be considered and resolved as follows:

A. County and Sierra shall each designate staff persons who are to meet, discuss and if possible propose a resolution of the dispute and if a resolution is proposed, are responsible to present it to the person or persons having final decision making authority.

B. If a resolution of the dispute is not proposed as a result of the process described in A. above, the dispute will be presented directly to the Chief Executive Officer of Sierra and two designated members of the Board of Washoe County Commissioners who will seek to resolve it and if an agreement is reached will present the agreement to the persons or persons having decision making authority.

C. To the extent required by applicable law, the approval of the Put

Commission will also be sought and obtained.

It is the intention of County and Sierra that disputes will be kept to a minimum and that if a dispute should arise, the Chief Executive Office of Sierra and the designated County Commission members will continue to work to resolve the dispute until a resolution is achieved.

ARTICLE IV

APPROVAL OF PUBLIC SERVICE COMMISSION

This Agreement shall not enter into effect unless and until the Public Service

Commission of Nevada enters an order approving its terms, the order becomes final and the order is not subject to further appeal before any court.

ARTICLE V

BINDING ON SUCCESSORS

This Agreement shall be binding upon the successor and assigns of County and Sierra and may only be amended as provided in NRS §540A.300(2).

ARTICLE VI

GOOD FAITH AND FAIR DEALING

The parties shall implement the provisions of this Agreement in good faith and shall observe all standards of fair dealing with respect thereto.

ARTICLE VII

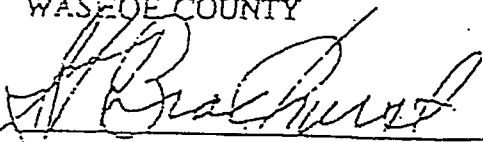
TERMINATION OF AGREEMENT

Either party may elect to terminate this Agreement if the provisions of N.R.S.

§540A.310 are amended by the Nevada legislature; provided, however, that this right to

terminate shall not apply to the express language of an amendment to which County and
Sierra have agreed prior to its enactment. Written notice of such an election shall be given
by the electing party to the other party not later than six (6) months after any such
amendment becomes effective.

WASHOE COUNTY



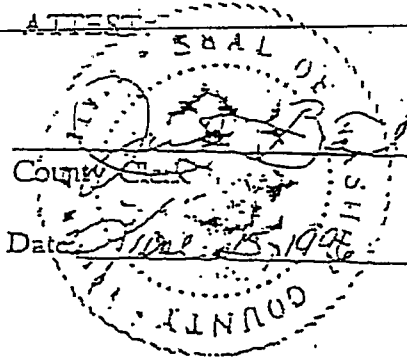
Steve Bradhurst, Chairman
Washoe County Commission

SIERRA PACIFIC POWER COMPANY



Walter E. Higgins, President,
Chairman and Chief Executive Officer

ATTEST



Date:

July 9, 1990

Exhibit "D"

Exhibit "D"

INTERLOCAL AGREEMENT FOR PROVISION OF WATER SERVICES IN VERDI, NEVADA

This Agreement is made and entered into this 1st day of June, 2005, by and between Washoe County, a political subdivision of the State of Nevada (hereinafter "County") and the Truckee Meadows Water Authority, a Joint Powers Authority created pursuant to NRS Chapter 277 among Reno, Sparks and Washoe County, Nevada (hereinafter "TMWA").

RECITALS

WHEREAS, Washoe County and the Truckee Meadows Water Authority are public agencies authorized by chapter 277 of the Nevada Revised Statutes to enter into interlocal and cooperative agreements with each other for the performance of governmental functions; and

WHEREAS, County and TMWA operate community water systems in the Truckee Meadows and are each capable of providing water service to the Verdi area, and

WHEREAS, the service boundaries between Washoe County and TMWA are subject to an agreement (hereinafter the "1996 Agreement," attached hereto as Exhibit A) entered in 1996 between Washoe County and TMWA's predecessor, Sierra Pacific Power Company; and

WHEREAS, County and TMWA, pursuant to the Order Re: Verdi Property Owners' Motion for Enforcement of Settlement Agreement, entered December 30, 2004, in case no. CV02-03469 in the Second Judicial District Court of the State of Nevada in and for the County of Washoe (which Order is attached hereto as Exhibit B), engaged in dispute resolution activities to resolve certain requests by certain property owners (hereinafter "Verdi Property Owners") to adjust the boundary for water service to Verdi; and

WHEREAS, County and TMWA, utilizing the factors contained in Section 2.7 of the 1996 Agreement, have reached an agreement regarding the provision of water service to the Verdi area.

NOW THEREFORE, it is agreed as follows:

1. By this Agreement, County and TMWA are creating a distinct water service program for Verdi to address the unique needs and circumstances that exist there. This program does not create a precedent for the resolution of service area issues that may arise in the future in other parts of the county. Under the program, County will retain its service territory as defined in the 1996 Agreement ("County Service Area") and all retail water customers in Verdi within the County Service Area will be County customers.
2. TMWA will provide water service to the point of connection with each County retail connection for those water customers within the Mortensen Annexation Area (hereinafter "the Joint Service Area"), as described and depicted in Section 1.2, Table 1.1 and Figure 3-1 of the Mortensen Development Standards Handbook, January 2004, pages

1-2 and 1-3 of which are attached hereto as Exhibit C. Upon ratification of this Agreement by County and TMWA and subject to compliance by the Verdi Property Owners with all TMWA requirements for the issuance of a will serve commitment, including without limitation, dedication of water rights, payment of fees, and compliance with other applicable TMWA requirements, and subject to TMWA rules, TMWA will issue a will serve commitment or commitments for the Joint Service Area that comply in all respects with the applicable requirements of law. Water resource dedication for the Joint Service Area will be made to TMWA in accordance with TMWA Rule 7. Infrastructure will be built to TMWA's standards and specifications (including joint trenching of water and gas lines), pursuant to TMWA Rules and fees structures, and will be inspected by TMWA pursuant to its Rules and procedures, with the exception of necessary customer meter facilities, which will be built to County's standards and specifications. Customer meter facilities (hereinafter "County Retail Facilities") shall include the Mueller Pit and the meter facilities within it, which will be installed between TMWA's facilities and the retail customer's facilities.

3. All necessary services and approvals for the development and construction of water infrastructure and facilities, except County Retail Facilities, within the Joint Service Area, including without limitation, planning, engineering, water facility agreements, map approvals, inspections, etc., shall be provided by TMWA, and the Verdi Property Owners, their agents, successors and assigns will deal exclusively with TMWA with respect to such services and approvals. TMWA agrees to notify County when County inspections are required for County Retail Facilities. A retail customer or its representative will make application to County for retail water service.

4. County will provide meters, meter reading, billing, and customer service to retail water customers within the Joint Service Area and will remit all cash receipts collected by it in connection with all previous billings on a monthly basis net of applicable regional and local fees and the Equivalent Customer Service Cost described in Paragraph 4.a. to TMWA. County will charge the same retail rates to water customers within the Joint Service Area as TMWA would charge under comparable conditions, including any surcharges to such rates as would be imposed under TMWA's rules. County shall remit revenues to TMWA no later than three weeks after the last day of the preceding month, and shall provide TMWA with a monthly reporting of customer usage data, including customer service address, service size, customer type, read date and meter reading. A parcel number cross-reference listing shall be provided in addition to a monthly billing journal for the Joint Service Area. County shall be responsible for collecting and remitting applicable regional and local fees charged to customers, including without limitation, rights-of-way tolls, Remediation District assessments, and Regional Water Planning Commission fees, to the designated recipients of those fees.

4.a. Equivalent Customer Service Cost. County is entitled to an offset of collected revenue in an amount that represents the equivalent of TMWA's actual cost of customer service for those accounts for which revenue was collected, which includes the customer cost components identified in TMWA's cost of service studies, specifically, replacement of meter and metering facilities expenses, maintenance of metering facilities expense, total customer service and information expenses, and the administration and general expenses related to

customer service . These components of the actual cost of customer service are more fully described in Exhibit D hereto ("Equivalent Customer Service Cost"). Subject to this provision, TMWA's net revenue under the Agreement will be the same as if the Joint Service Area was TMWA's service area and the retail water customers within the Joint Service Area were TMWA's retail water customers. The Equivalent Customer Service Cost will be adjusted annually, based upon the most recent fiscal year's actual recorded customer-related expenses contained in TMWA's Comprehensive Annual Financial Report prepared by its external auditors. The adjustment shall be ratified by the Washoe County Manager and the General Manager of TMWA without the necessity of official action by the governing boards of the Parties and shall take effect January 1 of each year. Any disputes regarding the annual cost adjustment shall be submitted to the Oversight Advisory Board for resolution. The decision of the Oversight Advisory Board will be final. If the Oversight Advisory Board is unable to resolve the dispute, the same arbitration process described in Paragraph 10 shall be utilized to reach a decision.

5. County shall be responsible for the repair and maintenance of County Retail Facilities. TMWA shall be responsible for the repair and maintenance of the water distribution system within the Joint Service Area up to the point of connection with the County Retail Facilities. County and TMWA each agree to cooperate to the fullest extent possible to provide immediate notification of customer outages, pressure problems, leaks, emergency calls, and any other circumstance that may affect the operations of the other Party and/or require response by the other Party. County and TMWA each agree to provide the other Party with current emergency contact information. TMWA and County shall maintain usual and customary insurance for their respective facilities. Each Party agrees, without waiver of statutory defenses and limitations, to hold the other Party harmless from and against the negligent or willful acts of its employees.

6. At any time, by mutual written agreement of County and TMWA, the Joint Service Area may be expanded to include additional County Service Area. If the parties agree to such an expansion, the terms of the Agreement will apply to the provision of water within the expanded Joint Service Area.

7. At its option, County will provide retail water service to other areas of the County Service Area within Verdi outside of the Joint Service Area pursuant to a wholesale agreement or agreements with TMWA, the terms of which remain to be negotiated. County and TMWA concur that final terms of that agreement, including cost, cannot be established at the present time, but agree that the cost of water under the wholesale agreement will be based on the actual cost of service, and that the agreement will be offered on a nondiscriminatory basis to County. County agrees to require, at developer cost, the installation of wholesale meters, as necessary to accommodate such wholesale agreements. The cost of the wholesale meters to be installed under this paragraph will not be assessed of the Verdi Property Owners as part of their development of the Joint Service Area.

8. Assets within the Joint Service Area, including facilities and water resources, but not the necessary County Retail Facilities discussed in paragraph 2, will be the

property of TMWA for the term of the Agreement. County Retail Facilities will be the property of County.

9. This Agreement is contingent upon ratification by official action of the governing body of the parties hereto, and shall be effective on the later of June 1, 2005, or the date last ratified. The initial term of this Agreement between County and TMWA will extend until build-out of the Joint Service Area, and until such time thereafter as an agreement is reached for reversion of the Joint Service Area to County in accordance with the provisions of Paragraph 10 of this Agreement, or as otherwise agreed by mutual consent of the Parties. No action by the parties regarding the term of this Agreement shall impair any rights of the Verdi Property Owners under the Agreement.

10. Upon completion of build-out of the Joint Service Area, County has the option to take over retail water service to the Joint Service Area and appurtenant assets, including facilities and water resources, by mutual written agreement of County and TMWA, and subject to compliance with the factors contained in Section 2.7 of the 1996 Agreement. If the parties are unable to agree on the terms of the reversion of the Joint Service Area or continuation of this Agreement, they will submit the decision to binding arbitration before a mutually agreed upon neutral third party. The arbitration shall be conducted in accordance with the time frames and process set forth in Rules 9 through 17(A) of the Nevada Arbitration Rules and the arbitrator's decision must be based upon an assessment of the factors contained in Section 2.7 of the 1996 Agreement. The parties shall share the cost of the arbitrator's services equally and shall each bear its own costs and attorney's fees incurred for the arbitration.

11. County and TMWA agree to perform joint infrastructure planning for the entire Verdi area, so that conjunctive use and facility planning for the whole area can be done economically and the cost and use of facilities can be shared where feasible. The joint infrastructure planning for the entire Verdi area shall occur in a timely manner that does not delay the planning, engineering or development of infrastructure within the Joint Service Area. A delay in the completion of the joint infrastructure planning for the entire Verdi area shall not affect, nor be a reason to delay, any necessary planning, engineering action or approval required to serve the Joint Service Area.

12. To aid in determination of water usage within the Joint Service Area and other areas, zone meters may be required as part of the TMWA facilities and will be charged to appropriate developers and property owners in accordance with TMWA rules.

13. Well mitigation within the County Service Area within Verdi will be provided pursuant to the existing Well Mitigation Hearing Board process.

14. The cost for infrastructure improvements (including costs for planning, engineering, etc.) in Verdi that benefit only customers outside the Joint Service Area will be borne by those customers. If a benefit accrues to the Joint Service Area customers from infrastructure improvements built pursuant to the joint infrastructure planning for the County Service Area within Verdi, then those retail customers may be assessed a proportionate share of the cost, provided the assessment of such a cost is compatible with TMWA's ability to impose surcharges under its rules. Exclusive of improvements the

Verdi Property Owners committed to pursuant to the City of Reno Plan Development Handbook for the Joint Service Area, no obligation shall be placed on the Verdi Property Owners as part of their development of the Joint Service Area to plan, engineer or construct future infrastructure improvements for the benefit of areas outside of the Joint Service Area unless the owners are reimbursed pursuant to TMWA's rules and regulations for such infrastructure improvements

15. An Oversight Advisory Board is hereby established, comprised of four governing board members, two appointed by County and two appointed by TMWA. The Oversight Advisory Board shall oversee and resolve disputes that may arise in the administration and implementation of the Agreement and shall act as the final decision maker regarding the use of the cash citizens' donation made by the Verdi Property Owners. The precise scope of responsibility and rules of conduct of the Oversight Advisory Board shall be set forth in a separate document to be developed under the direction of the Advisory Board and presented to the governing boards of the Parties for approval no later than three months following the effective date of this Agreement.

16. County agrees to process any permits needed from it by the Verdi Property Owners for rights-of-way and easements through its jurisdiction in a prompt and non-discriminatory manner to allow the necessary infrastructure improvements and utilities to serve the Joint Service Area.

17. To the extent the Verdi Property Owners are deemed to be beneficiaries of this Agreement, the Property Owners' rights and the ability to enforce them are contingent upon the performance of their obligations under the Settlement Agreement discussed in paragraph 23.

18. This Agreement contains all the commitments and agreements of the parties, and oral or written commitments not contained herein shall have no force or effect to alter any term or condition of this Agreement, unless modified in accordance with Paragraph 19.

19. This Agreement may be amended or modified only by the mutual written agreement of County and TMWA and ratification by their respective governing boards. No amendment of the Agreement will impair any rights of the Verdi Property Owners under the Agreement

20. In case any one or more of the terms, sentences, paragraphs or provisions contained herein shall for any reason be held to be invalid, illegal, or non-enforceable, in any respect, such invalidity, illegality, or non-enforceability shall not affect any other terms, sentences, paragraphs, or provisions and this Agreement shall be construed as if such invalid, illegal, or non-enforceable provision had never been contained herein.

21. A waiver of any breach of any provision of this Agreement by any party shall not be construed to be a waiver of any preceding or succeeding breach.

22. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Nevada.

23. This Agreement is intended to be part of a resolution of the disputes with the Verdi Property Owners pursuant to the Order attached hereto as Exhibit "B." TMWA and the County will enter into a separate Settlement Agreement with the Verdi Property Owners which incorporates this Agreement and provides for the continuing jurisdiction of the Court to enforce the terms of this Agreement as it relates to the provisions affecting the Verdi Property Owners and to resolve disputes between the County and/or TMWA as party of the first part, and the Verdi Property Owners as party of the second part.

IN WITNESS WHEREOF, the Parties have set their hands with the intent to be bound.

Dated 7-21-, 2005

Truckee Meadows Water Authority, a Joint Powers Authority created pursuant to NRS Chapter 277


By: 

Dated _____, 2005

Washoe County Board of Commissioners

By: Bonnie Weber
Bonnie Weber, Chairman

ATTEST:


Washoe County Clerk

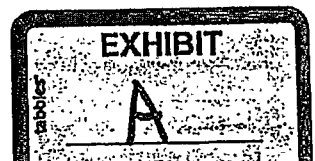
SPPC/W.C. Boundary Agreement
CW: 7

AGREEMENT

THIS AGREEMENT is entered into this 28th day of JUNE, 1996, by and between the County of Washoe, State of Nevada (hereinafter "County") and Sierra Pacific Power Company (hereinafter "Sierra").

RECITALS

1. County is a county to which the provisions of Nevada Revised Statutes Chapter 540A apply.
2. Sierra is the largest public utility supplier of water within the region, as defined in NRS §540A.030.
3. In applicable part, NRS §540A.300 provides:
 1. The board of county commissioners and the largest supplier of water within the region which is a public utility shall enter into an agreement which defines the respective areas within the region where the public utility and all systems for the supply of water which are controlled or operated by the board will provide retail water services. The agreement must resolve all issues related to service territories of the public utility and all systems for the supply of water which are controlled or operated by the board. An agreement executed pursuant to this subsection does not become effective until the public service commission of Nevada approves the terms of the agreement.
4. In applicable part NRS §540A.030 provides:
 1. In each county to which this chapter applies, except as otherwise provided in subsections 2 and 3, the region within which water is to be managed, and with respect to which plans for its use are to be made, pursuant to this chapter is the entire county except:
 - (a) Any land within the region defined by NRS 277.200, the Tahoe Regional Planning Compact; and
 - (b) Lands located within any Indian reservation or Indian colony which are held in trust by the United States.
 2. The board may exclude from the region any land which it



determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.

6. This Agreement is intended to satisfy the requirements of NRS §540A.300.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

ARTICLE I

DEFINITION OF REGION

~~For purposes of this Agreement, the "Region" does not include any portion of Washoe~~

County described in NRS §540A.030 1(a) or 1(b) and is further limited to that portion of Washoe County shown on the map which is attached hereto and by this reference incorporated herein as Exhibit "A".

ARTICLE II

RETAIL WATER SERVICE IN THE REGION

Section 2.1 Existing Customers. Sierra and all systems for the supply of water which are controlled or operated by the Board of County Commissioners of County shall each continue to provide retail water service to those customers to whom they are providing such service on the date of execution of this Agreement.

Section 2.2 Retail Service Territory of Sierra. Subject to the provisions of sections 2.4 through 2.8, Sierra shall provide retail water service to the areas within the Region designated as "SPPCo Service Area" on Exhibit "A".

Section 2.3 Retail Service Territory of County. Subject to the provisions of sections 2.4 through 2.8, all systems for the supply of water which are controlled or operated

by the Board of County Commissioners of County shall provide retail water service to the areas within the Region designated as "Washoe County Service Area" on Exhibit "A".

Section 2.4 Retail Service Areas of Others; Domestic Wells. The provisions of Sections 2.1 through 2.3 are not intended to affect the areas of the Region receiving retail water service from an entity other than Sierra, a system for the supply of water not controlled or operated by the Board of County Commissioners of County or a domestic well.

Section 2.5 Acquisition of Retail Service Providers. Nothing in this Agreement is ~~intended to prevent and this Agreement shall not be construed as preventing Sierra or County~~ from acquiring directly or indirectly other entities providing retail water service within the Region. In the event of such an acquisition the retail service territory boundaries of the acquiring entity shall be deemed amended to the extent of the retail service territory boundaries of the acquired entity.

Section 2.6 Resolution of Conflicting Provisions. In the event there is a conflict between the retail service boundaries established by section 2.1 of this Agreement and those established by any other section of this Agreement, the provisions of section 2.1 shall control.

Section 2.7 Adjustment of Retail Water Service Boundaries. County and Sierra agree that the retail water service areas established by this Article may be adjusted for projects near the boundaries of their respective service areas or for projects which the County and Sierra agree can be best served in a different manner. Any adjustment in service area boundaries may be made by agreement of the parties. In considering and deciding proposed service area boundary adjustments, the parties will seek to:

- A. Provide water service at the lowest aggregate cost of all facilities,

improvements and operations required to provide water service as measured by net present

value, generally using current dollars at the time of comparison or decision;

B. Not adversely affect customers, existing or future; and

C. Provide for the best interests of system development and integration.

Section 2.8. Avoidance of Stranded Investment. Although the parties have generally considered the location of their respective existing facilities for providing retail water service in establishing the retail water service boundaries in this Article, they have not undertaken detailed and specific studies in that regard. ~~The parties agree to take reasonable~~ measures in good faith so that the boundaries established by this Article do not result in either having stranded investments in facilities for the provision of water service.

ARTICLE III

DISPUTE RESOLUTION

Disputes arising under this Agreement will be considered and resolved as follows:

A. County and Sierra shall each designate staff persons who are to meet, discuss and if possible propose a resolution of the dispute and if a resolution is proposed, are responsible to present it to the person or persons having final decision making authority.

B. If a resolution of the dispute is not proposed as a result of the process described in A. above, the dispute will be presented directly to the Chief Executive Officer of Sierra and two designated members of the Board of Washoe County Commissioners who will seek to resolve it and if an agreement is reached will present the agreement to the person or persons having decision making authority.

C. To the extent required by applicable law, the approval of the Put

Commission will also be sought and obtained.

It is the intention of County and Sierra that disputes will be kept to a minimum and that if a dispute should arise, the Chief Executive Office of Sierra and the designated County Commission members will continue to work to resolve the dispute until a resolution is achieved.

ARTICLE IV

APPROVAL OF PUBLIC SERVICE COMMISSION

This Agreement shall not enter into effect unless and until the Public Service

Commission of Nevada enters an order approving its terms, the order becomes final and the order is not subject to further appeal before any court.

ARTICLE V

BINDING ON SUCCESSORS

This Agreement shall be binding upon the successor and assigns of County and Sierra and may only be amended as provided in NRS §540A.300(2).

ARTICLE VI

GOOD FAITH AND FAIR DEALING

The parties shall implement the provisions of this Agreement in good faith and shall observe all standards of fair dealing with respect thereto.

ARTICLE VII

TERMINATION OF AGREEMENT

Either party may elect to terminate this Agreement if the provisions of N.R.S.

§540A.310 are amended by the Nevada legislature; provided, however, that this right to

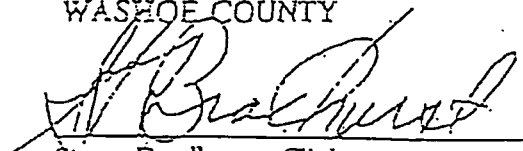
terminate shall not apply to the express language of an amendment to which County and

Sierra have agreed prior to its enactment. Written notice of such an election shall be given

by the electing party to the other party not later than six (6) months after any such

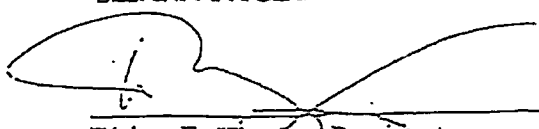
amendment becomes effective.

WASHOE COUNTY



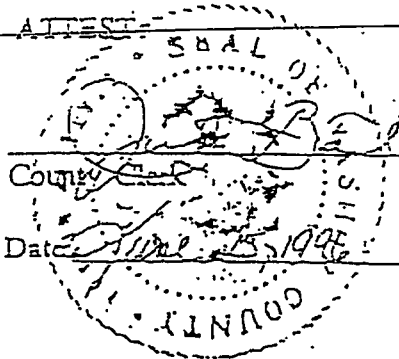
Steve Bradhurst, Chairman
Washoe County Commission

SIERRA PACIFIC POWER COMPANY



Walter E. Higgins, President,
Chairman and Chief Executive Officer

ATTEST



Date: July 9, 1996

Date: July 9, 1996

CODE NO. 3370

FILED

DEC 30 2004

RONALD A. LONGIN, JR., CLERK
By: *[Signature]*
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

COUNTY OF WASHOE, by and through its
Board of County Commissioners; Sun Valley
General Improvement District, by and through
its Board of Trustees,

Plaintiff,

Case No. CV02-03469

Dept. No. 9

vs.

WASHOE COUNTY REGIONAL GOVERNING
BOARD,

Defendants,

AND ALL RELATED ACTIONS.

ORDER RE: VERDI PROPERTY OWNERS' MOTION FOR
ENFORCEMENT OF SETTLEMENT AGREEMENT

Ricorose Quilici Ranch Property, LLC, the Robert and Marjorie Quilici Family Trust, and the Ronald and Diana Anderson Family Trust; the Estate of J. Ross Mortensen, by and through its executor Karen Middagh, Karen Middagh as Guardian of the Estate and Person of Irene Mortensen, and James W. and Karen Middagh (collectively, the "Verdi Property Owners") filed a Motion for Enforcement of the Settlement Agreement and For a Determination of the Breach of the Covenant of Good Faith and Fair Dealing. The Motion seeks an order of the Court finding Washoe County violated the terms of the parties' Settlement Agreement dated November 8, 2002. Exhibit 4.

The Court has reviewed and considered the points and authorities submitted in

EXHIBIT

B

1 support of and in opposition to the Motion, took testimony in a week long hearing.
2 considered depositions, and 75 exhibits.¹

3 On November 8, 2002, the Verdi Property Owners and Washoe County entered into
4 a Settlement Agreement concerning the annexation and development of the Verdi Property
5 Owners' real property. Pursuant to Paragraph 2, Washoe County recognized and agreed to
6 the annexation of the Verdi Property Owners' property into the City of Reno pursuant to
7 Reno City Ordinance No. 5264. The parties also provided for requests to be made by the
8 Verdi Property Owners for changes in the density of development and the adoption of a
9 Development Standards Handbook. The Development Standards Handbook would govern
10 development on the Verdi Property Owners' land pursuant to subsequent applications for
11 tentative maps and special use permits.

12 The Verdi Property Owners presented applications for development to the City of
13 Reno. As part of their requests concerning density and the Development Standards
14 Handbook, the Property Owners' requested the City of Reno provide water service through
15 the Truckee Meadows Water Authority ("TMWA"). The City of Reno requested the Verdi
16 Property Owners petition Washoe County to allow TMWA to provide service to the
17 properties.

18 The Verdi Property Owners' land is located within Washoe County's service territory.
19 However, TMWA's service boundary is adjacent to the Verdi Property Owners' land and
20 Washoe County currently has no facilities to supply water to the Verdi Property Owners.

21 On March 24, 2003, the Verdi Property Owners submitted their request to Washoe
22 County to allow TMWA to expand its service area and provide water service to the Verdi
23 Property Owners' land.

24 On October 14, 2003, Washoe County rejected the Verdi Property Owners' request.
25 The instant motion followed. TMWA sought leave to intervene on this issue. The Court
26 granted leave on the condition that TMWA consent to the jurisdiction of the Court and the
27

28 ¹ The Court reserved ruling on the admissibility of Exhibits 33 and 34. Given the Court's conclusion that the Settlement Agreement is clear and unambiguous, the Court will not consider the draft copies and the objection is sustained to these two exhibits.

1 understanding that no appeal could be taken from any determination made. TMWA
2 consented.

3 Paragraph 13 of the Verdi Property Owners/Washoe County Settlement Agreement
4 provides in pertinent part as follows:

5 13. The parties agree to implement this agreement in good faith, including
6 mutual cooperation on.....the provision of water service in accordance
7 with applicable practices, policies, rules and regulations,
8 The Verdi Property Owners' contend that Washoe County's rejection of the request to
9 modify the water service boundaries is a breach of the Settlement Agreement.

10 In 1996, Washoe County and Sierra Pacific Power Company entered into an
11 agreement concerning water service in the region. See Exhibit 1. The agreement specified
12 the service territories for Sierra Pacific Power Company and Washoe County. See Exhibit
13 72. Generally speaking the parties agreed that water would be provided by Sierra Pacific
14 and Washoe County within the boundaries of the territories set forth in Exhibit 72.

15 Section 2.7 of the 1996 agreement, however, permitted adjustment of the boundaries
16 to accommodate specific projects. The agreement contemplated adjustments by mutual
17 agreement of the parties. In reaching a decision on the adjustment of service area
18 boundaries, the parties obligated themselves to consider:

- 19 a. providing water service at the lowest aggregate costs of all facilities,
20 improvements, and operations required to provide water service as
21 measured by net present value;
- 22 b. not adversely affect customers, existing or future; and
- 23 c. provide for the best interest of system development and integration.

24 The parties also provided for dispute resolution. TMWA is the successor to Sierra
25 Pacific Power Company and agrees that it is bound by the 1996 agreement.

26 Lori Williams was the Director of Water for Sierra Pacific Power Company at the time
27 of the 1996 agreement. She testified credibly that the purpose of the agreement was to "do
28 the right thing by the customer." In accessing boundary line adjustments, the parties agreed
to make a practical assessment concerning which entity had the facilities and the water and
who could best serve the customer. Prior to 2002, Ms. Williams worked directly with

1 Washoe County on an informal basis and the parties reach a number of agreements
2 modifying the service boundary territories.

3 In 2002, Ms. Williams, now the General Manager for TMWA, formalized the review of
4 territory adjustment with Steve Bradhurst, the Director of the Department of Water
5 Resources for Washoe County. Ms. Williams and Mr. Bradhurst agreed to a procedure in
6 which the developer would make a request for territory adjustment and the staffs of Washoe
7 County and TMWA would conduct a joint evaluation. Using this procedure, the parties have
8 made additional territorial adjustments to their respective service boundaries.

9 The Verdi Property Owners' request for an adjustment of the TMWA territory was first
10 discussed at a monthly staff meeting between TMWA and Washoe County. County staff
11 wanted to perform a comparison study of the effect of the change in service to the Verdi
12 Property Owners from Washoe County to TMWA. Although TMWA was always willing to
13 adjust the boundary and provide the services, it consented to the study.

14 On June 2, 2003, TMWA and Washoe County advised the Verdi Property Owners of
15 their intent to retain a consulting firm ".....with proven expertise in the utility financing and
16 utility rate matters.....to compare Washoe County and TMWA water service requirements,
17 rate and fee structures, and costs relative to the provision of water service to properties in
18 the Lawton to Verdi area." See Exhibit 29.

19 FCS Group, Inc. was commissioned to conduct the "Verdi Service Comparison". In
20 August of 2003, a draft of the report was presented to the Verdi Property Owners'
21 representatives. Several deficiencies were noted and FCS made some changes resulting in
22 a final report which was admitted into evidence as Exhibit 5. The Verdi Service Comparison
23 concluded that based on the evaluation of service options, differences in services
24 characteristics and minimal cost differential there was no ".....overwhelming basis for the
25 transfer of service from the County to TMWA....." See Exhibit 5, page 10.

26 The FCS report was submitted to the Washoe County Commissioners at their
27 hearing held on October 14, 2003 to consider the Verdi Property Owners' request to change
28 boundary lines. The Court finds a number of deficiencies exist in the report provided to the

Commissioners. Indeed, they are numerous and included among them are the following:

1. FCS representative informed the Court that this was the first time he had done a comparative study;
2. FCS was not provided with nor did they consider the Settlement Agreement Exhibit 4;
3. No consideration was given to the correct water dedication requirements;
4. The report did not address provider or service rates, only facility comparisons;
5. The report did not consider the costs of a Wholesale Water Agreement;
6. The report did not consider the fact that no Wholesale Water Agreement exists between TMWA and Washoe County concerning the Verdi Property Owners' land; and
7. The report did not consider the fact that most Wholesale Water Agreements between Washoe County and TMWA are cancelled in 10 years.²

The FCS representative also testified candidly that he was not asked to raise or rule out other issues, yet he acknowledged there were a number of other issues that could have been studied further. He acknowledged that areas such as the dedication of water, joint trenching requirements, and the nature of Wholesale Agreement terms should be part of any evaluation in a decision to change boundary lines. Most troubling to the Court was his conclusion that had he known of the existence of the Settlement Agreement, he would have developed a different scope of work for conducting the comparison study.

When Ms. Williams reviewed the FCS report, she concluded that there was no basis for the report to conclude what the County would charge for water rates in the Verdi area. TMWA and Washoe County had never discussed rates and no terms had been reached for a Wholesale Agreement between TMWA and the County.

John Collins was the Manager of the Washoe County Utility Services. Mr. Collins

² This issue creates serious financing concerns for the Verdi Property Owners.

1 testified that he too was unaware of the parties' Settlement Agreement. Exhibit 4. Further,
2 he did not supply the Settlement Agreement to FCS. Mr. Collins acknowledged that
3 Washoe County has no distribution lines or facilities to serve water to Verdi. Furthermore,
4 any water service provided by Washoe County would require a Wholesale Agreement with
5 TMWA. Mr. Collins further agreed that Section 2.7 of the 1996 Agreement is the only policy
6 Washoe County uses to determine boundary line adjustments, and no distinction is made
7 between the size of the boundary line adjustment. Mr. Collins also agreed that Washoe
8 County would accept water under TMWA Rule 7 for dedication. This position, however,
9 seems to be in conflict with Washoe County Ordinances. Further, he agreed Washoe
10 County would supply water at TMWA rates. However, without the terms of the Wholesale
11 Agreement being known, Mr. Collins acknowledged that in theory Washoe County could
12 actually lose money supplying water to Verdi.

13 The Court finds the Washoe County Commissioners were not provided with many of
14 the facts supplied to the Court concerning the decision to adjust the water service boundary.
15 While the Commissioners proceeded on the basis of information supplied to them, it is clear
16 that a number of issues were not correctly evaluated or presented. Under the
17 circumstances, the Court cannot conclude that Washoe County acted in good faith with
18 respect to the decision to adjust the service boundary line. Therefore, the Court vacates the
19 determination of Washoe County on October 13, 2003 denying the Verdi Property Owners'
20 request to change boundaries.

21 The Verdi Property Owners ask the Court to order a change in the boundary line to
22 TMWA as a further remedy for Washoe County's breach of the Settlement Agreement. The
23 Court believes this conclusion is premature.

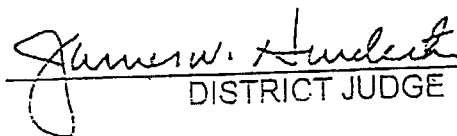
24 As noted, the information supplied to the Commissioners was flawed and did not take
25 into consideration the terms of the Settlement Agreement. Furthermore, testimony
26 generated at the hearing on this matter showed that no consideration had been given by
27 TMWA or Washoe County to other water service in the Verdi area. The Court is concerned
28 that extension of the TMWA boundary may not address other water needs in the area thus

1 leaving pockets or islands under the Washoe County service territory. The Court also
2 observes that Washoe County and TMWA failed to follow the terms of the 1996 Agreement
3 concerning dispute resolution. Article 3 of the 1996 Agreement compels the parties to
4 follow a dispute resolution process in the event the parties are unable to agree on an issue
5 such as this. That never happened in this case.

6 Pursuant to the Court's jurisdiction over the implementation of the Settlement
7 Agreement and based on the foregoing findings, the Court orders TMWA and Washoe
8 County to follow Article 3 of the 1996 Agreement in deciding whether to adjust the boundary
9 for water service to Verdi. In resolving the dispute, the parties are limited in their
10 consideration to the factors set forth in Section 2.7 of the Agreement. TMWA and Washoe
11 County are ordered to meet and confer pursuant to Article 3 of the 1996 Agreement within
12 45 days of the date of this Order to resolve the service boundary lines for the Verdi Property
13 Owners. The parties' conference should include consideration for other water service to the
14 Verdi area. TMWA and Washoe County shall have 90 days to inform the Court of the
15 results of the dispute resolution process. Should the parties fail to agree using the
16 standards set forth in Section 2.7 of the Agreement, the Court shall consider further
17 remedies resulting from Washoe County's breach of the Settlement Agreement.

18 One further issue requires resolution.. Significant differences were presented to the
19 Court concerning the quantity of water to be dedicated by the Verdi Property Owners. This
20 dispute was highlighted during the County Commissioners hearing on October 14, 2003.
21 Subsequent to that hearing, Washoe County staff agreed the water dedication should be in
22 quantities consistent with TMWA Rule 7. Therefore, any water dedication to either TMWA
23 or Washoe County shall be made in accordance with TMWA Rule 7.

24 DATED this 30 day of December, 2004.

25
26 
27 DISTRICT JUDGE
28

CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court, in and for the County of Washoe; and that on this 3 day of January, 2005, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

Madelyn Shipman, Esq.
Assistant District Attorney
Washoe County District
Attorney's Office
(via interoffice mail)

Norman Azavedo, Esq.
338 California Avenue
Reno NV 89509

Marilyn Craig
Deputy City Attorney
Reno City Attorney's Office
P. O. Box 1900
Reno NV 89505

David Creekman, Esq.
Sr. Assistant City Attorney
Sparks City Attorney's Office
P. O. Box 857
Sparks NV 89431

J. Stewart White, Esq.
White Meany & Wetherall, LLP
3185 Lakeside Drive
Reno NV 89509

Stephen C. Mollath, Esq.
Prezant & Mollath
6560 SW McCarran Blvd., Ste. A
Reno NV 89509

R. Shawn Oliphant, Esq.
Lane, Fahrendorf, Vilorio & Oliphant, Ltd.
327 California Avenue
Reno, Nevada 89509

Sylvia Harrison, Esq.
McDonald Carano Wilson LLP
P. O. Box 2670
Reno NV 89505-2670

Mesa A. Prince

1.2 OWNERSHIP

Table 1-1 defines the ownership and parcels included in the MDSH. The Middagh parcel (APN 038-100-21) and a portion of APN 038-100-27 (6.51 acres) were included in the Settlement Agreement and annexed to the City of Reno but are not a part of the MDSH. Zoning for these parcels will be addressed at a later date by the property owner in accordance with the Settlement Agreement (section 9 of the Settlement Agreement).

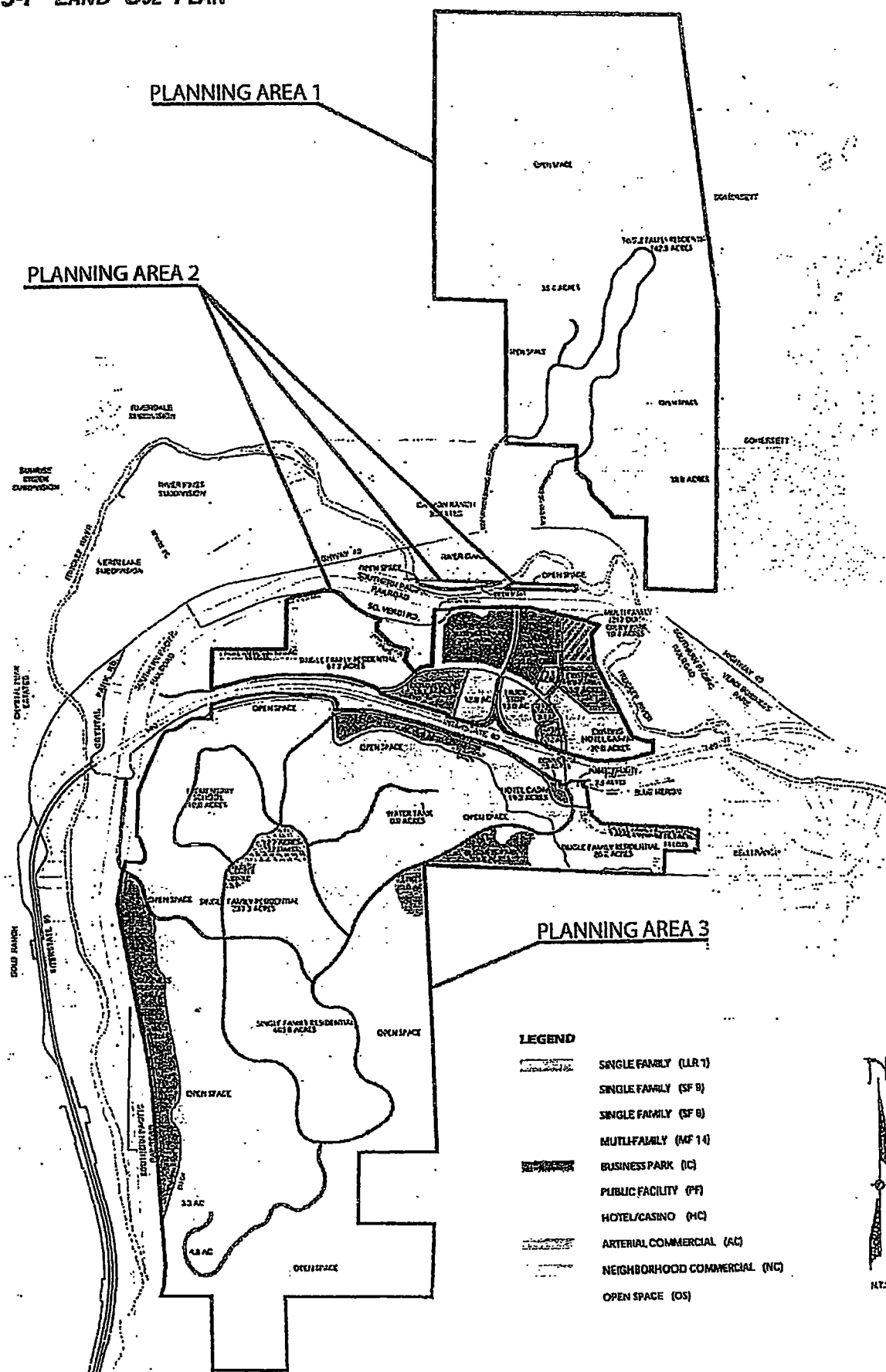
TABLE 1-1 OWNER/PARCEL DATA

Property Owner	APN's	Total Acreage	Property Owner	APN's	Total Acreage
Boomtown	038-090-34	±563.29 ac	Quilici	038-190-14	±491.69 ac
	038-090-61			038-200-05	
	038-100-12			038-200-11	
	038-100-19			038-260-15	
	038-100-26				
	038-100-27		Mortensen	038-010-05	±999.78 ac
	038-120-03			038-100-10	
	038-120-08			038-100-11	
	038-120-10			038-830-02	
	038-120-12				
	038-120-13		Santerra LLC	038-030-10	±669.23 ac
	038-120-14			038-120-04	
	038-132-25			038-190-37	
	038-430-02				
	038-430-03				
	038-430-04				
	038-430-20				
	038-430-21				
	038-430-22				
	038-430-24				
	038-430-28				

1.3 BACKGROUND

The subject properties were annexed to the City of Reno effective July 24, 2001. Washoe County filed District Court Case No. CV01-03867. This lawsuit resulted in a Settlement Agreement (see appendix) that defines a maximum density and density distribution for the properties. It also established criteria to be used in the determination of the appropriate density and density distribution for the properties identified in Table 1-1.

FIGURE 3-1 LAND USE PLAN



change, p. 2, suggested by
water resource staff - approved by ERM,
most considered by TMDA board.

EXHIBIT D

Highlighted in gray are those customer cost components identified in TMWA's cost of service studies which comprise the costs to be included in the Equivalent Customer Service Cost. The customer cost components include TMWA's replacement meters/metering facilities expenses, total customer service and information expenses, maintenance of meters expense, and administration and general expenses related to customer service. The Equivalent Customer Service Cost will be adjusted annually based upon the actual costs incurred by TMWA during the prior fiscal period and contained in TMWA's Comprehensive Annual Financial Report prepared by its external auditors. Once all the customer related costs have been identified, they are divided by 12 times the average number of total services during the prior fiscal period to derive the monthly Equivalent Customer Service Cost per service, which when multiplied by the number of services in the Joint Service Area equals the monthly revenue effect the County is entitled to.

TRUCKEE MEADOWS WATER AUTHORITY
CLASSIFICATION OF REPAIR & REPLACEMENT
(\$ in thousands)

Line No.	Account Description	Acct. No.	Repair and Replacement Components			
			Commodity	Demand	Customer	File
	a	b	c	d	e	f
1	Land & Water Rights	310				
2	Land & Water Rights-Wells	310.1				
3	Structures & Improvements	321				
4	Collect. & Impound Reservoirs	322				
5	River Intakes/Hydras	323				
6	Wells	324				
7	Supply Mains	325				
8	Total Source		0	0	0	0
9	Structures & Improvements	321				
10	Electric Pumping Equipment	325				
11	Total Pumping Plant		0	0	0	0
12	Land & Water Rights	330				
13	Structures & Improvements	331				
14	Water Treatment Equipment	332				
15	Total Water Treatment		0	0	0	0
16	Land & Water Rights	340				
17	Structures & Improvements	341				
18	Distnb. Resrv. & Standpipes	342				
19	Dist. Reservoirs: Hunter & Highland	342.1				
20	Trans. & Dist. Mains	343				
21	Services	345				
22	Meters	346				
23	Meter Facility Installations	347				
24	Hydrants	348				
25	Total Transmission & Distribution		0	0	0	0
26	Land & Land Rights	389				
27	Reservoir Improvements	390				
28	Office Furniture & Eqp.	391				
29	Computer & Data Processing Equipment	391.1				
30	Transportation Equipment	392				
31	Stores Equipment	393				
32	Laboratory Equipment	395				
33	Miscellaneous General Eqp.	398				
34	Total General Plant & Equipment		0	0	0	0
35	TOTAL REPAIR & REPLACEMENT		0	0	0	0



TRUCKEE MEADOWS WATER AUTHORITY
CLASSIFICATION OF OPERATION & MAINTENANCE and ADMINISTRATIVE & GENERAL EXPENSES

Line No.	Account Description	Acct. No.	Repair and Replacement Components			
			Commodity	Demand	Customer	Fire
			-b-	-c-	-d-	-e-
1	Supply Labor Expense	601				
2	Purchased Power	603				
3	Licenses & permits	603.1				
4	Supplies	603.2				
5	Outside services	603.3				
6	Rents	604				
7	Total Source of Supply Expenses		0	0	0	0
8	Purchased Power	623				
9	Pumping Labor & Expenses	624				
10	Purchased Power	625				
11	Supplies	625.1				
12	Outside services	625.2				
13	Rents	627				
13	Total Pumping Expenses		0	0	0	0
14	Supplies	644				
15	Supplies-Chemicals	644.1				
16	Purchased Power	644.2				
17	Operation Labor & Expense	642				
18	Miscellaneous Expense	642				
19	Rents	643.1				
20	Licenses & permits	643.2				
21	Maint. Water Treatment Equip.	652				
22	Total Water Treatment Expenses		0	0	0	0
23	Operation Supervision & Eng.	660				
24	Customer Installation Expenses	664				
25	Miscellaneous Expense	665				
26	Rents	666				
27	Supplies	666.1				
28	Outside services	666.2				
29	Maint. Dist. Resrv. Standpipes	672				
30	Maint. Trans. & Dist. Mains	673				
31	Maint. Services	675				
32	Maint. Water Meters Facilities	676				
33	Total Transmission & Distribution Expenses		0	0	0	0
34	Supervision & Labor	901				
35	Meter Reading	902				
36	Cust. Records & Info. Exp.	903				
37	Uncollectible Accounts	904				
38	Misc. Cust. Service & Info. Exp.	909				
39	Rents	909.1				
40	Supplies	909.2				
41	Outside services	909.3				
42	Total Customer Service & Information Expense		0	0	0	0
43	TOTAL OPERATION & MAINTENANCE EXPENSE		0	0	0	0
44	Admin. & General Salaries	920				
45	Office Supplies Expenses	921				
46	Outside Services	923				
47	Insurance	924				
48	Injuries & Damages	925				
49	Employee Pensions	926.1				
50	Employee Benefits	926.2				
51	Misc. General Expense	930.2				
52	Rents	931				
53	Main. of General Plant	935				
54	TOTAL ADMINISTRATION & GENERAL EXP.		0	0	0	0
55	TOTAL O&M and A&G		0	0	0	0

Exhibit "E"

Exhibit "E"

EXHIBIT "E"

Payment Schedule

Mortensen Parcels	\$ 117.35/DU single family
Quilici Parcels	\$ 113.93/DU single family \$ 319.50/Acre of non-residential (IC)
Santerra LLC Parcels	\$ 144.36/DU single family \$ 63.74/DU multi-family \$ 6,265.60 school site \$ 309.14/Acre non-residential (NC,IC)
Boomtown Parcels	\$ 118.95/DU single family \$ 63.52/DU multi-family \$ 748/Acre of non-residential (HC,AC,IC)

All properties are as defined in the Dec. 2003 Mortensen et.al. Development Standards Handbook as set forth in Exhibit "A."

- DU = dwelling unit
- HC = hotel casino zoning
- AC = arterial commercial zoning
- NC = neighborhood commercial zoning

AMENDMENT TO
INTERLOCAL AGREEMENT FOR PROVISION
OF WATER SERVICES IN VERDI, NEVADA

This Amendment to Interlocal Agreement For Provision of Water Services in Verdi, Nevada ("Amendment") dated for identification purposes as of the 23rd day of September, 2014, is entered by and between Washoe County, a political subdivision of the State of Nevada (hereinafter "County") and the Truckee Meadows Water Authority, a Joint Powers Authority created pursuant to NRS Chapter 277 among Reno, Sparks and Washoe County, Nevada (hereinafter "TMWA").

RECITALS

WHEREAS, Washoe County and the Truckee Meadows Water Authority are public agencies authorized by chapter 277 of the Nevada Revised Statutes to enter into interlocal and cooperative agreements with each other for the performance of governmental functions.

WHEREAS, on or about June 1, 2005, County and TMWA entered into that certain Interlocal Agreement for Provision of Water Services in Verdi, Nevada attached hereto as Exhibit "A" ("Original Agreement"), pursuant to which the parties created "a distinct water service program for Verdi" and set forth certain agreements regarding the provision of water service to the Verdi area by TMWA and the County to resolve disputes over service area obligations.

WHEREAS, in connection with the Original Agreement, the County, TMWA and owners ("Verdi Property Owners") of certain property within the Verdi, Nevada area entered into a Settlement Agreement attached hereto as Exhibit "B".

WHEREAS, following the execution of the Original Agreement, and in furtherance of directives in the Western Regional Water Commission Act, TMWA and County evaluated the feasibility of consolidating their water service functions and determined that the County water utility should be merged into TMWA.

WHEREAS, TMWA and County entered into that certain Interlocal Agreement Governing the Merger of the Washoe County Department of Water Resources Water Utility into the Truckee Meadows Water Authority dated January 29, 2010 ("Merger Agreement"), which provides for the merger of the County water utility into TMWA ("Merger").

WHEREAS, upon completion of the Merger, TMWA will be the surviving water purveyor and shall have full responsibility for water utility functions and providing water service to the Verdi area which is the subject of the Original Agreement, eliminating the need for the water service program established by the Original Agreement.

NOW THEREFORE, TMWA and County desire to amend the Original Agreement as follows:

1. Retail Water Service to Verdi Property Owners. Upon completion of the Merger and TMWA's assumption of water utility functions as contemplated by the Merger Agreement: (i) the Verdi Property Owners shall be eligible to apply for water service as TMWA retail customers and TMWA will be responsible for providing water service to the Verdi Property Owners properties in accordance with TMWA rules and regulations; (ii) water service to the Verdi Property Owners' properties shall be subject to and made in accordance with TMWA rules and requirements for water service, including without limitation, annexation provisions, the

issuance of a will serve commitment, dedication of water rights, payment of fees, construction and dedication of infrastructure, and compliance with other applicable TMWA requirements; and (iii) the provisions of paragraphs 1 through 16 of the Original Agreement shall no longer have any force or effect and shall be deemed superseded by this Amendment.

2. Entire Understanding of the Parties. This Amendment and the Original Agreement contains all the commitments and agreements of the parties with respect to the subject matter thereof. This Amendment may be amended or modified only by the mutual written agreement of County and TMWA and ratification by their respective governing boards. No amendment of the Amendment will impair any rights of the Verdi Property Owners under the Original Agreement. To the extent the provisions of this Amendment conflict with any of the terms and conditions of the Original Agreement the provisions of this Amendment shall control.

3. Ratification By Governing Boards. This Amendment is contingent upon ratification by official action of the governing body of the parties hereto, and shall be effective on the date the Merger is consummated.

IN WITNESS WHEREOF, the Parties have set their hands with the intent to be bound.

TRUCKEE MEADOWS WATER
AUTHORITY, a Joint Powers Authority created
pursuant to NRS Chapter 277

Dated _____, 2014

By: _____
Mike Carrigan, Chairman

Dated _____, 2014

WASHOE COUNTY BOARD OF
COMMISSIONERS

By: _____
David Humke, Chairman

ATTEST:

Washoe County Clerk